IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION

NO. 5:07-CR-00064-FL-1 NO. 5:12-CV-00677-FL

LINWOOD BATTS, JR.,)	
Petitioner,)	
V.)	MEMORANDUM AND
)	RECOMMENDATION
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
)	

This memorandum and recommendation supplements the memorandum and recommendation issued May 23, 2013 (DE-132). In the memorandum and recommendation issued May 23, 2013, the undersigned overlooked the declaration made by Batts averring that he placed the motion to vacate in the prison mailing system on September 18, 2012. Mot. Vacate 12, DE-122. Given this declaration, the undersigned concludes that the motion to vacate is timely. The portion of the memorandum and recommendation issued May 23, 2013 recommending that the motion to vacate be dismissed as untimely is therefore VACATED. However, the remainder of the memorandum and recommendation issued May 23, 2013, which concludes that the motion to vacate fails to state a claim upon which relief may be based, remains unchanged.

SO RECOMMENDED in Chambers at Raleigh, North Carolina on Friday, May 24, 2013.

WILLIAM A. WEBB

UNITED STATES MAGISTRATE JUDGE